

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 VERNON WAYNE McNEAL,

11 Petitioner,

No. CIV S-02-1413 LKK KJM P

12 vs.

13 DAVID RUNNELS, Warden,

14 Respondent.

ORDER

15 _____/
16 Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of
17 this court's September 23, 2005 denial of his application for a writ of habeas corpus. Before
18 petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c);
19 Fed. R. App. P. 22(b).

20 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the
21 applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C.
22 § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues
23 satisfy the required showing or must state the reasons why such a certificate should not issue.
24 Fed. R. App. P. 22(b).

25 /////

26 /////

1 For the reasons set forth in the magistrate judge's June 8, 2005 findings and
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
3 right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 DATED: February 23, 2006.

6
7 /s/Lawrence K. Karlton
8 UNITED STATES DISTRICT JUDGE

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
/mcne1413.830d